

Assembly Bill No. 169

Passed the Assembly September 10, 2013

Chief Clerk of the Assembly

Passed the Senate September 9, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 32000, 32100, and 32110 of the Penal Code, relating to unsafe handguns.

LEGISLATIVE COUNSEL'S DIGEST

AB 169, Dickinson. Unsafe handguns.

(1) Existing law provides for the testing of handguns and requires the Department of Justice to maintain a roster listing all handguns that are determined not to be unsafe handguns. Existing law makes it a crime, punishable by imprisonment in a county jail not exceeding one year, to manufacture, import into the state for sale, keep for sale, offer or expose for sale, give, or lend an unsafe handgun. Existing law provides that the provisions defining and governing unsafe handguns do not apply to the sale, loan, or transfer of any firearm in a transaction that requires the use of a licensed dealer or to the delivery of a firearm to a licensed dealer for purposes of a consignment sale or as collateral for a pawnbroker loan.

This bill would limit these exemptions to a maximum of 2 firearms per person, per calendar year, and would make the provisions defining and governing unsafe handguns inapplicable to the surrender of any pistol, revolver, or other firearm capable of being concealed upon the person to a local law enforcement agency. By expanding the definition of a crime, this bill would impose a state-mandated local program.

(2) Existing law makes the provisions defining and governing unsafe handguns inapplicable to a single-shot pistol, as specified.

This bill would instead make the provisions defining and governing unsafe handguns inapplicable to a single-shot pistol with a break top or bolt action. The bill would make this exemption inapplicable to a semiautomatic pistol that has been temporarily or permanently altered so that it will not fire in a semiautomatic mode. By expanding the definition of a crime, this bill would impose a state-mandated local program.

(3) Existing law exempts the purchase of a handgun from the above prohibition on manufacturing, importing, selling, giving, or lending an unsafe handgun if the handgun is sold to, or purchased

by, the Department of Justice, a police department, a sheriff's official, a marshal's office, the Department of Corrections and Rehabilitation, the California Highway Patrol, a district attorney's office, or the military or naval forces of this state or of the United States for use in the discharge of their official duties.

This bill would prohibit a person exempted under the above provision from selling or otherwise transferring the ownership of the handgun to a person who is not exempted under the same provision unless the transaction is exempt from the requirement to complete the transaction through a licensed dealer. By expanding the definition of a crime, this bill would impose a state-mandated local program.

(4) The bill would also make nonsubstantive, technical corrections.

(5) This bill would incorporate additional changes to Section 32000 of the Penal Code proposed by SB 363 that would become operative if this bill and SB 363 are both enacted and this bill is enacted last.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 32000 of the Penal Code is amended to read:

32000. (a) Commencing January 1, 2001, any person in this state who manufactures or causes to be manufactured, imports into the state for sale, keeps for sale, offers or exposes for sale, gives, or lends any unsafe handgun shall be punished by imprisonment in a county jail not exceeding one year.

(b) This section shall not apply to any of the following:

(1) The manufacture in this state, or importation into this state, of a prototype handgun when the manufacture or importation is for the sole purpose of allowing an independent laboratory certified by the Department of Justice pursuant to Section 32010 to conduct an independent test to determine whether that handgun is prohibited

by Sections 31900 to 32110, inclusive, and, if not, allowing the department to add the firearm to the roster of handguns that may be sold in this state pursuant to Section 32015.

(2) The importation or lending of a handgun by employees or authorized agents of entities determining whether the weapon is prohibited by this section.

(3) Firearms listed as curios or relics, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations.

(4) The sale or purchase of a handgun, if the handgun is sold to, or purchased by, the Department of Justice, a police department, a sheriff's official, a marshal's office, the Department of Corrections and Rehabilitation, the California Highway Patrol, a district attorney's office, or the military or naval forces of this state or of the United States for use in the discharge of their official duties. This section does not prohibit the sale to, or purchase by, sworn members of these agencies of a handgun. A person who, under this paragraph, acquires a handgun that is not on the roster required by Section 32015 shall not sell or otherwise transfer ownership of the handgun to a person who is not exempted under this paragraph.

(c) Violations of subdivision (a) are cumulative with respect to each handgun and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by this section and other provisions of law shall not be punished under more than one provision, but the penalty to be imposed shall be determined as set forth in Section 654.

SEC. 1.5. Section 32000 of the Penal Code is amended to read:

32000. (a) Commencing January 1, 2001, any person in this state who manufactures or causes to be manufactured, imports into the state for sale, keeps for sale, offers or exposes for sale, gives, or lends any unsafe handgun shall be punished by imprisonment in a county jail not exceeding one year.

(b) This section shall not apply to any of the following:

(1) The manufacture in this state, or importation into this state, of a prototype handgun when the manufacture or importation is for the sole purpose of allowing an independent laboratory certified by the Department of Justice pursuant to Section 32010 to conduct an independent test to determine whether that handgun is prohibited by Sections 31900 to 32110, inclusive, and, if not, allowing the

department to add the firearm to the roster of handguns that may be sold in this state pursuant to Section 32015.

(2) The importation or lending of a handgun by employees or authorized agents of entities determining whether the weapon is prohibited by this section.

(3) Firearms listed as curios or relics, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations.

(4) The sale or purchase of a handgun, if the handgun is sold to, or purchased by, the Department of Justice, a police department, a sheriff's official, a marshal's office, the Department of Corrections and Rehabilitation, the California Highway Patrol, a district attorney's office, a federal law enforcement agency, or the military or naval forces of this state or of the United States for use in the discharge of their official duties. This section does not prohibit the sale to, or purchase by, sworn members of these agencies of a handgun. A person who, under this paragraph, acquires a handgun that is not on the roster required by Section 32015 shall not sell or otherwise transfer ownership of the handgun to a person who is not exempted under this paragraph.

(c) Violations of subdivision (a) are cumulative with respect to each handgun and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by this section and other provisions of law shall not be punished under more than one provision, but the penalty to be imposed shall be determined as set forth in Section 654.

SEC. 2. Section 32100 of the Penal Code is amended to read:

32100. (a) Article 4 (commencing with Section 31900) and Article 5 (commencing with Section 32000) shall not apply to a single-action revolver that has at least a five-cartridge capacity with a barrel length of not less than three inches, and meets any of the following specifications:

(1) Was originally manufactured prior to 1900 and is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations.

(2) Has an overall length measured parallel to the barrel of at least seven and one-half inches when the handle, frame or receiver, and barrel are assembled.

(3) Has an overall length measured parallel to the barrel of at least seven and one-half inches when the handle, frame or receiver,

and barrel are assembled and that is currently approved for importation into the United States pursuant to the provisions of paragraph (3) of subsection (d) of Section 925 of Title 18 of the United States Code.

(b) Article 4 (commencing with Section 31900) and Article 5 (commencing with Section 32000) shall not apply to a single-shot pistol with a break top or bolt action and a barrel length of not less than six inches and that has an overall length of at least 10½ inches when the handle, frame or receiver, and barrel are assembled. However, Article 4 (commencing with Section 31900) and Article 5 (commencing with Section 32000) shall apply to a semiautomatic pistol that has been temporarily or permanently altered so that it will not fire in a semiautomatic mode.

SEC. 3. Section 32110 of the Penal Code is amended to read:

32110. Article 4 (commencing with Section 31900) and Article 5 (commencing with Section 32000) shall not apply to any of the following:

(a) (1) The sale, loan, or transfer of any firearm pursuant to Chapter 5 (commencing with Section 28050) of Division 6 in order to comply with Section 27545 if the sale, loan, or transfer satisfies the requirements specified in paragraph (2).

(2) The sale, loan, or transfer of any firearm pursuant to this subdivision is limited to a total of two firearms per person, per calendar year.

(b) The sale, loan, or transfer of any firearm that is exempt from the provisions of Section 27545 pursuant to any applicable exemption contained in Article 2 (commencing with Section 27600) or Article 6 (commencing with Section 27850) of Chapter 4 of Division 6, if the sale, loan, or transfer complies with the requirements of that applicable exemption to Section 27545.

(c) The sale, loan, or transfer of any firearm as described in paragraph (3) of subdivision (b) of Section 32000.

(d) The delivery of a pistol, revolver, or other firearm capable of being concealed upon the person to a person licensed pursuant to Sections 26700 to 26915, inclusive, for the purposes of the service or repair of that firearm.

(e) The return of a pistol, revolver, or other firearm capable of being concealed upon the person by a person licensed pursuant to Sections 26700 to 26915, inclusive, to its owner where that firearm

was initially delivered in the circumstances set forth in subdivision (a), (d), (f), or (i).

(f) (1) The delivery of a pistol, revolver, or other firearm capable of being concealed upon the person to a person licensed pursuant to Sections 26700 to 26915, inclusive, for the purpose of a consignment sale or as collateral for a pawnbroker loan if the delivery of the pistol, revolver, or other firearm capable of being concealed upon the person satisfies the requirements of paragraph (2).

(2) The delivery of a pistol, revolver, or other firearm capable of being concealed upon a person to a person licensed pursuant to Sections 26700 to 26915, inclusive, for the purpose of a consignment sale or as collateral for a pawnbroker loan, pursuant to this subdivision, is limited to a total of two firearms per person, per calendar year.

(g) The sale, loan, or transfer of any pistol, revolver, or other firearm capable of being concealed upon the person listed as a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations.

(h) The sale, loan, or transfer of any semiautomatic pistol that is to be used solely as a prop during the course of a motion picture, television, or video production by an authorized participant therein in the course of making that production or event or by an authorized employee or agent of the entity producing that production or event.

(i) The delivery of a pistol, revolver, or other firearm capable of being concealed upon the person to a person licensed pursuant to Sections 26700 to 26915, inclusive, where the firearm is being loaned by the licensee to a consultant-evaluator.

(j) The delivery of a pistol, revolver, or other firearm capable of being concealed upon the person by a person licensed pursuant to Sections 26700 to 26915, inclusive, where the firearm is being loaned by the licensee to a consultant-evaluator.

(k) The return of a pistol, revolver, or other firearm capable of being concealed upon the person to a person licensed pursuant to Sections 26700 to 26915, inclusive, where it was initially delivered pursuant to subdivision (j).

(l) The surrender of any pistol, revolver, or other firearm capable of being concealed upon the person to a local law enforcement agency.

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 32000 of the Penal Code proposed by both this bill and Senate Bill 363. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2014, (2) each bill amends Section 32000 of the Penal Code, and (3) this bill is enacted after Senate Bill 363, in which case Section 1 of this bill shall not become operative.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2013

Governor